

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION
Fact Sheet No. 3 For Dairies

Enforcement of Water Quality Laws And Regulations That Apply To Dairies

The **California Water Code** (the Porter-Cologne Water Quality Control Act) requires that manure and other wastes be managed to protect water quality. State regulations that apply to dairies and other confined animal facilities have been established pursuant to the Water Code and are contained in the California Code of Regulations, Title 27, Division 2, Subdivision 1, Chapter 7, Subchapter 2, (see Fact Sheet for Dairies No. 2). Any dairy that causes a pollution of surface water or groundwater can be required to conduct an assessment of the water body and clean up the pollution. In addition, the dairy operator and owner may be subject to fines if wastes are discharged off their property.

To ensure compliance with the Water Code, Regional Water Quality Control Boards (RWQCBs) can impose Waste Discharge Requirements for individual facilities. The RWQCBs can also take enforcement action by issuing a Notice of Violation, Cleanup and Abatement Order, Cease and Desist Order, or Administrative Civil Liability Complaint. These actions are described below.

Waste Discharge Requirements (WDRs) may be established after a dairy provides a Report of Waste Discharge (RWD) and pays a \$2,000 filing fee. Dairies are usually requested to file a RWD only when it appears that waste management practices at the facility can adversely impact water quality. If review of the RWD indicates a waiver is appropriate, WDRs are not issued and a portion of the filing fee may be refunded. WDRs specify certain actions that must be met, prohibit other actions, and establish monitoring and reporting requirements including submission of annual reports to the RWQCB.

A Notice of Violation (NOV) can be issued to the operator and owner of any facility where wastes are discharged in violation of laws, regulations, or orders. The NOV will specify the problem that must be corrected and generally will require that a time schedule be established for necessary improvements. If the improvements are completed within the approved time schedule, the RWQCB generally does not assess oversight charges in conjunction with the NOV. If the problem is not corrected, and/or required information is not submitted, a RWQCB can initiate enforcement actions that may result in imposition of monetary penalties.

A Cleanup and Abatement (C&A) Order can be issued when wastes have been, or threaten to be, improperly discharged and corrective action is needed to protect water quality. The C&A Order will identify the discharge of concern and establish a schedule for corrective actions. The C&A Order may provide for reimbursement of RWQCB staff time to oversee corrective action. However, in cases where corrective actions are completed quickly, charges for staff time are minimal and may even be waived as not worth the administrative effort to collect.

A Cease and Desist (C&D) Order can be issued when Waste Discharge Requirements are violated. It is similar to a C&A Order in that it will specify the problem that must be corrected, will require that a time schedule be established for necessary improvements, and may provide for reimbursement for staff time. An ACL may be issued concurrently with a C&D Order.

An Administrative Civil Liability (ACL) is a monetary assessment issued to a facility that violates Waste Discharge Requirements or an enforcement order. The amount of the ACL is related to the violation that occurred up to a maximum of \$25,000 for each day of occurrence. Failure to pay an ACL can result in referral to the Attorney General's office for prosecution.

In addition to the state laws and regulations enforced by the RWQCBs, there are state laws and regulations enforced by other state agencies such as the Department of Fish and Game. There are also federal laws and

local regulations that apply to dairies. The most important federal laws are discussed below. The state and federal agencies that may be involved in enforcing compliance with the laws are also discussed below.

The **Clean Water Act (CWA)** is federal law established for protection of surface water, and is enforced by the USEPA and the RWQCBs. The CWA establishes the NPDES program (described in Fact Sheet No. 1 for Dairies) and provides for enforcement actions including fines of up to \$ 27,500 per day of violation. The CWA allows for “third party” lawsuits under which part of a fine is given to the person reporting the violation.

The **Safe Drinking Water Act** is federal law established for protection of groundwater. The law is enforced by the USEPA, and sets allowable levels of specific chemicals, including nitrate, in drinking water supplies.

The following agencies are involved in protection of the environment and enforce state and/or federal laws and regulations that apply to the management and disposal of animal wastes:

State Department of Fish and Game (CDFG) This agency has regulations prohibiting discharges of waste that can adversely impact aquatic habitat. Any fines imposed for violation of CDFG regulations are in addition to any enforcement actions taken by the RWQCB or other regulatory agencies.

United States Environmental Protection Agency (USEPA) The USEPA enforces the Clean Water Act and the Safe Drinking Water Act and can impose fines for violation of those laws. Many dairies must obtain a federal NPDES storm water permit (please see *Fact Sheet For Dairies, No. 1* for more information on this subject). If a dairy does not have a NPDES storm water permit, and wastewater is discharged into a watercourse other than during a 25-year 24-hour storm, the USEPA can impose substantial fines. The fines imposed by USEPA are in addition to any enforcement actions taken by the RWQCB or other regulatory agencies.

County Health Departments Depending on the county, the local health department may have requirements for design and/or management of waste facilities at dairies. The county may be able to impose penalties for improper management of animal wastes or may refer cases to the county district attorney's office for enforcement.

Attorneys and Special Prosecutors County District Attorneys, the California State Attorney General, attorneys from the U.S. Department of Justice, and other state and federal prosecutors can request courts to order corrections in waste management practices that do not comply with applicable federal, state, and local laws. The courts can also impose financial penalties for violations of those laws. In addition, the courts can impose criminal penalties, including a jail sentence, for certain violations. The orders and/or penalties imposed by state and federal courts can be in addition to any enforcement actions taken by the RWQCB or other regulatory agencies.

For more information about the water quality programs that apply to confined animal facilities, contact the RWQCB dairy regulatory staff at the following offices:

- Sacramento (916) 255-3000
- Fresno (559) 445-5116
- Redding (916) 224-4845